

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL MIRAMONTES,

Plaintiff,

v.

MEYERS,

Defendant.

Case No. 1:23-cv-00204-HBK (PC)

ORDER VACATING FINDINGS AND  
RECOMMENDATIONS TO DISMISS CASE  
FOR FAILURE TO PROSECUTE

(Doc. No. 6)

Plaintiff Paul Miramontes is a state prisoner proceeding pro se in this civil rights action that was removed by Defendant from Kern County Superior Court to this Court on February 10, 2023. (Doc. No. 1). On February 24, 2023, the Clerk's Office issued a Notice Reassigning Case, which was served on Plaintiff by mail and returned "Undeliverable RTS-Insufficient Address" on February 27, 2023. (*See docket*). Under Local Rule 183(b), Plaintiff had to submit a change of address no later than May 8, 2023. E.D. Cal. R. 183(b).

On May 8, 2023, having received no updated address from Plaintiff, the undersigned issued Findings and Recommendations ("F&R") to dismiss the case for failure to prosecute. (Doc. No. 6). On May 18, 2023, Plaintiff timely filed objections to the F&R, stating he did move and blaming CDCR officials for not delivering his mail and returning it. (*Id.* at 1-2). Plaintiff provides as his return address the existing mailing address of record at California Correctional Institution in Tehachapi. The Court draws the reasonable inference that Plaintiff has not moved, the Notice Reassigning Case that was improperly returned, and the previously issued F&R should be vacated because Plaintiff's address of record is accurate.

Accordingly, it is **ORDERED**:

1. The Court VACATES its May 8, 2023, Findings and Recommendations (Doc. No. 6).
2. Until the Court screens Plaintiff's operative complaint pursuant to 28 U.S.C. §1915A, Defendant is not required to respond to the complaint.

Dated: June 7, 2023

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE